

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

OPERATIVE PLASTERERS AND CEMENT  
MASONS INTERNATIONAL  
ASSOCIATION LOCAL 262 ANNUITY  
FUND, Individually And On Behalf Of All  
Others Similarly Situated,

Plaintiff,

v.

LEHMAN BROTHERS HOLDINGS, INC.,  
RICHARD S. FULD JR., CHRISTOPHER M.  
O'MEARA, JOSEPH M. GREGORY, and  
ERIN CALLAN,

Defendants.

CIVIL ACTION NO. 1:08-cv-05523 (LAK)

NOTICE OF MOTION TO ADMIT  
COUNSEL *PRO HAC VICE*

FILED COURT  
U.S. DISTRICT COURT  
2008 SEP -3 PM 12:53  
S.D. OF N.Y.

NOTICE OF MOTION AND MOTION TO ADMIT COUNSEL *PRO HAC VICE*

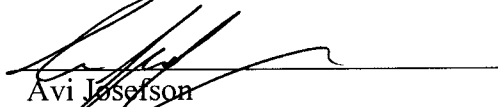
PURSUANT TO RULE 1.3(c) of the Local Rules of the United States District Court for the Southern District of New York, I, Avi Josefson, a member in good standing of the bar of this Court, hereby move for an Order allowing the admission *pro hac vice* of:

Applicant's Name: David A. Thorpe  
Firm Name: Bernstein Litowitz Berger & Grossmann LLP  
Address: 12481 High Bluff Drive, Suite 300  
City/State/Zip: San Diego, CA 92130  
Phone Number: (858) 793-0070  
Fax Number: (858) 793-0323  
Email Address: DavidT@blbglaw.com

David A. Thorpe is a member in good standing of the Bar of the State of California. There are no pending disciplinary proceedings against David A. Thorpe in any State or Federal Court.

Dated: September 3, 2008

Respectfully submitted,  
**BERNSTEIN LITOWITZ BERGER  
& GROSSMANN LLP**

A handwritten signature in black ink, appearing to read 'Avi Josephson', is written over a horizontal line.

Avi Josephson  
1285 Avenue of the Americas  
New York NY 10019  
Telephone: 212-554-1400  
Fax: 212-554-1444

*Co-Lead Counsel for Lead Plaintiffs*

**UNITED STATES DISTRICT COURT  
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**AFFIDAVIT OF AVI JOSEFSON IN  
SUPPORT OF MOTION TO ADMIT  
COUNSEL *PRO HAC VICE***

State of New York                     )  
  )  
County of New York                 )                 ss.

Avi Josefson, being duly sworn, hereby deposes and says as follows:

1. I am an associate at Bernstein Litowitz Berger & Grossmann LLP, Co-Lead Counsel for the Lead Plaintiffs in the above-captioned action. I am familiar with the proceedings in this case. I make this statement based on my personal knowledge of the facts set forth herein and in support of the Lead Plaintiffs' motion to admit David A. Thorpe as counsel *pro hac vice* to represent the Lead Plaintiffs in this matter.

2. I am a member in good standing of the bar of the State of New York, and was admitted to practice law in 2003. I am also admitted to the bar of the United States District Court for the Southern District of New York, and am in good standing with this Court.

3. Mr. Thorpe is an associate at Bernstein Litowitz Berger & Grossmann LLP in San Diego, California.

4. I have found Mr. Thorpe to be a skilled attorney and a person of integrity. He is experienced in Federal practice and is familiar with the Federal Rules of Procedure.

5. Accordingly, I am pleased to move the admission of David A. Thorpe, *pro hac vice*.

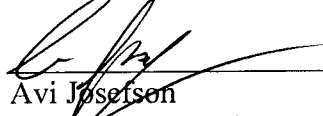
6. In compliance with Rule 1.3(c) of the Local Rules of the United States District Court for the Southern District of New York, I have attached Certificates of Good Standing for Mr. Thorpe from California issued within the past thirty days.

7. I respectfully submit a proposed order granting the admission of David A. Thorpe, *pro hac vice*, which is also attached.

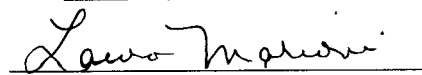
WHEREFORE it is respectfully requested that the motion to admit David A. Thorpe, *pro hac vice*, to represent the Lead Plaintiffs in the above-captioned matter, be granted.

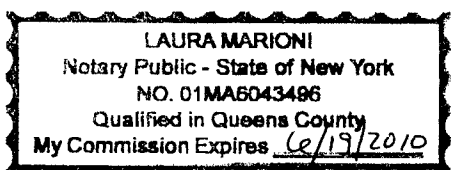
Dated: September 3, 2008

Respectfully submitted,  
**BERNSTEIN LITOWITZ BERGER  
& GROSSMANN LLP**

  
Avi Josephson  
1285 Avenue of the Americas  
New York NY 10019  
Telephone: 212-554-1400  
Fax: 212-554-1444

Sworn to and subscribed before me  
this 3<sup>rd</sup> day of September, 2008.

  
Notary Public



*Co-Lead Counsel for Lead Plaintiffs*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

OPERATIVE PLASTERERS AND CEMENT  
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CIVIL ACTION NO. 1:08-cv-05523 (LAK)

**ORDER FOR ADMISSION *PRO HAC*  
*VICE* ON WRITTEN MOTION**

Upon the motion of Avi Josefson, Co-Lead Counsel for the Lead Plaintiffs, and said  
sponsor attorney's affirmation in support;

IT IS HEREBY ORDERED that

Applicant's Name:	David A. Thorpe
Firm Name:	Bernstein Litowitz Berger & Grossmann LLP
Address:	12481 High Bluff Drive, Suite 300
City/State/Zip:	San Diego, CA 92130
Phone Number:	(858) 793-0070
Fax Number:	(858) 793-0323
Email Address:	DavidT@blbglaw.com

is admitted to practice *pro hac vice* as counsel for the Lead Plaintiffs in the above captioned case  
in the United States District Court for the Southern District of New York. All attorneys  
appearing before this Court are subject to the Local Rules of this Court, including the Rules

governing discipline of attorneys. If this action is assigned to the Electronic Case Filing (ECF) system, counsel shall immediately apply for an ECF password at [nysd.uscourts.gov](http://nysd.uscourts.gov). Counsel shall forward the *pro hac vice* fee to the Clerk of Court.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Lewis A. Kaplan, U.S. District Judge



# THE STATE BAR OF CALIFORNIA

MEMBER SERVICES CENTER

180 HOWARD STREET, SAN FRANCISCO, CALIFORNIA 94105-1639

TELEPHONE: 888-800-3400

August 28, 2008

## TO WHOM IT MAY CONCERN:

This is to certify that according to the records of the State Bar, DAVID ANDREW THORPE, #216498 was admitted to the practice of law in this state by the Supreme Court of California on December 4, 2001; and has been since that date, and is at date hereof, an ACTIVE member of the State Bar of California; and that no recommendation for discipline for professional or other misconduct has ever been made by the Board of Governors or a Disciplinary Board to the Supreme Court of the State of California.

THE STATE BAR OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Kath Lambert", is written over the printed name.

Kath Lambert  
Custodian of Membership Records

**CERTIFICATE OF SERVICE**

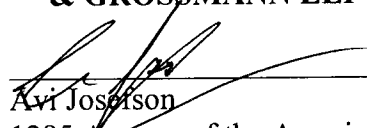
I, Avi Josefson, hereby certify that I filed true and correct copies of the foregoing documents:

- *PRO HAC VICE* MOTION, AFFIDAVIT, AND PROPOSED ORDER.

on Sept. 3, 2008 with the Clerk of the Court. All counsel on the attached Service

List have been served copies of the forgoing documents via the U.S. Postal Service.

**BERNSTEIN LITOWITZ BERGER  
& GROSSMANN LLP**

  
\_\_\_\_\_  
Avi Josefson

1285 Avenue of the Americas  
New York NY 10019  
Telephone: 212-554-1400  
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*Co-Lead Counsel for Lead Plaintiffs*



**SERVICE LIST**

Counsel receiving service via CM/ECF notification:

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*Counsel for Lehman Brothers Holdings, Inc., Richard S. Fuld, Jr., Christopher M. O'Meara, Joseph M. Gregory, Eric Callan*

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*Counsel for Fire & Police Pension Association of Colorado and Brockton Contributory Retirement System*

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*Counsel for The Pension Fund Group*